

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

BOBBY PLAIN,

Plaintiff,

v.

GENE STUBBLEFIELD, et al.,

Defendants,

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No. 4:16-CV-540 AGF

MEMORANDUM AND ORDER

This matter is before the Court on plaintiff's motion to file an amended complaint. The motion is denied.

Rule 15 of the Federal Rules of Civil Procedure states that "[t]he court should freely give leave [to amend] when justice so requires." The Supreme Court has enunciated the following general standard, which is to be employed under Rule 15(a) by the district courts:

If the underlying facts or circumstances relied upon by a plaintiff may be a proper subject of relief, he ought to be afforded an opportunity to test his claim on the merits. In the absence of any apparent or declared reason—such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.—the leave sought should, as the rules require, be “freely given.”

Foman v. Davis, 371 U.S. 178, 182 (1962).

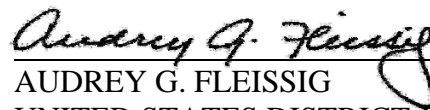
The Court previously reviewed plaintiff's complaint and dismissed it without prejudice under 28 U.S.C. § 1915(e) because it was barred by the five-year statute of limitations. The proposed amendment is futile because plaintiff's claims remain barred by the limitations period. The bulk of plaintiff's allegations relate to events that occurred in 2009 and 2010, and no later than January 2011. The amended complaint (paragraphs 20 and 21) references only two events that occurred after January, 2011, and those events are alleged to have occurred in February and

March, 2011. However, plaintiff did not file this action until April, 2016.¹ Consequently, the motion to amend is denied.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to file an amended complaint [ECF No. 7] is **DENIED**.

Dated this 31st day of August, 2016.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

¹ Plaintiff alleges he was transferred to the custody of the Bureau of Prisons in April, 2011.